

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1076

Introduced by Assembly Member Achadjian

February 18, 2011

An act to amend Section ~~14000~~ 15050 of the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, as amended, Achadjian. Credit unions.

Existing law, the California Credit Union Law, provides for the regulation and certification of credit unions by the Commissioner of Financial Institutions. *Existing law regulates loans to officials of a credit union and defines an official as a director, officer, or member of the supervisory committee or the credit committee of a credit union. Existing law prohibits a credit union from entering into any obligation with an official of the credit union, directly or indirectly, not fully secured by shares or certificates for funds unless specified requirements are satisfied. Existing law makes it a crime for specified employees of a credit union to knowingly permit, or participate in, the creation of an obligation that is not in conformity with the requirements of the Credit Union Law, except as specified.*

This bill would ~~rename that law as the California Credit Union Act~~. revise these requirements in order for a credit union to enter into an obligation with an official of the credit union, directly or indirectly, not fully secured by shares or certificates for funds. The bill would, among other things, in order for a credit union to be authorized to enter into these obligations with an official, require the obligation to be approved by the credit committee or credit manager of the credit union and

require the approval of the board of directors for an obligation or aggregate of obligations to an official in excess of \$20,000 plus pledged shares or when an official acts as guarantor or endorser of an obligation or aggregate of obligations in excess of \$20,000 to other members of the credit union.

Because knowingly creating or participating in the creation of an obligation in violation of these provisions by an employee of a credit union would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 15050 of the Financial Code is amended*
2 *to read:*

3 15050. (a) For purposes of this section, “official” means a
4 director, officer, or member of the supervisory committee or the
5 credit committee of a credit union.

6 (b) No credit union shall enter into any obligation with any
7 official, directly or indirectly, unless the obligation complies with
8 all lawful requirements of this division with respect to obligations
9 permitted for other members of the credit union and is not on terms
10 more favorable than those extended to other members of the credit
11 union, and the obligation is entered into in accordance with a
12 written policy adopted by the directors establishing that all officials
13 shall have an equal opportunity to enter into obligations with the
14 credit union.

15 (c) No credit union shall enter into any obligation with any
16 official, directly or indirectly, not fully secured by shares or
17 certificates for funds unless all of the following requirements are
18 satisfied:

19 ~~(1) Upon the making of the obligation, the aggregate amount~~
20 ~~of obligations outstanding, except obligations fully secured by~~

1 shares, to all officials and alternate members of the credit
2 committee will not exceed 10 percent of the aggregate dollar
3 amount of all savings capital of the credit union, except that in
4 credit unions whose aggregate savings capital is five million dollars
5 (\$5,000,000) or more but less than ten million dollars
6 (\$10,000,000), the aggregate amount of obligations outstanding,
7 except obligations fully secured by shares, to all officials and
8 alternate members of the credit committee shall not exceed 15
9 percent of the aggregate dollar amount of all savings capital of the
10 credit union, and in credit unions whose aggregate savings capital
11 is less than five million dollars (\$5,000,000), the aggregate amount
12 of obligations outstanding, except obligations fully secured by
13 shares, to all officials and alternate members of the credit
14 committee shall not exceed 20 percent of the aggregate dollar
15 amount of all savings capital of the credit union.

16 (2) The obligation, except any portion of an obligation fully
17 secured by shares, does not exceed 1 percent of the aggregate dollar
18 amount of all savings capital of the credit union, or the maximum
19 obligation to the credit union prescribed by subdivisions (b) and
20 (c) of Section 15100, whichever is less, except that in credit unions
21 whose aggregate savings capital is five million dollars (\$5,000,000)
22 or more but less than ten million dollars (\$10,000,000), the
23 obligation, except any portion of an obligation fully secured by
24 shares, shall not exceed 3 percent of the aggregate dollar amount
25 of all savings capital of the credit union, or the maximum obligation
26 to the credit union prescribed by subdivisions (b) and (c) of Section
27 15100, whichever is less, and in credit unions whose aggregate
28 savings capital is less than five million dollars (\$5,000,000), the
29 obligation, except any portion of an obligation fully secured by
30 shares, shall not exceed 5 percent of the aggregate dollar amount
31 of all savings capital of the credit union, or the maximum obligation
32 to the credit union prescribed by subdivisions (b) and (c) of Section
33 15100, whichever is less.

34 (3) (A)

35 (1) The obligation is approved by the credit committee, or in
36 the alternative the credit manager, and by the board of directors,
37 except that the credit manager shall not take part in any credit
38 decision directly or indirectly for his or her benefit. The board of
39 directors may select a loan officer to prepare a report and

1 recommendation as to any extension of credit or other obligation
2 requested by the credit manager.

3 ~~(B) Subparagraph (A) does not apply to the creation of an~~
4 ~~obligation on which an official is a direct obligor or an endorser,~~
5 ~~cosigner, or guarantor, if the aggregate of all of the following does~~
6 ~~not exceed fifty thousand dollars (\$50,000) plus the amount of~~
7 ~~shares, if any, that are pledged or will be pledged as collateral by~~
8 ~~the official:~~

9 ~~(i) The amount of the proposed obligation.~~

10 ~~(ii) The outstanding balances of obligations, including the used~~
11 ~~portion of any approved line of credit, extended to, or endorsed,~~
12 ~~cosigned, or guaranteed by, the official.~~

13 ~~(iii) The total unused portion of approved lines of credit~~
14 ~~extended to, or endorsed, cosigned, or guaranteed by, the official.~~

15 *(2) The obligation is approved by the board of directors if either*
16 *of the following apply:*

17 *(A) The obligation or the aggregate of obligations to the official*
18 *is in excess of twenty thousand dollars (\$20,000) plus pledged*
19 *shares.*

20 *(B) The obligation is to be guaranteed or endorsed by the official*
21 *and the obligation or the aggregate of obligations guaranteed or*
22 *endorsed by the official is in excess of twenty thousand dollars*
23 *(\$20,000).*

24 ~~(4)~~

25 *(3) The credit union member entering into the obligation takes*
26 *no part in the consideration of his or her application and does not*
27 *attend any committee or board meeting while his or her application*
28 *is under consideration.*

29 ~~(5)~~

30 *(4) The names of members of the credit committee, or in the*
31 *alternative, the credit manager, and board of directors who voted*
32 *to authorize or ratify the obligation shall be entered in their*
33 *respective minutes.*

34 *(d) No credit union shall permit an official or the credit manager*
35 *to become surety for any obligation created by the credit union for*
36 *anyone other than a member of their immediate family.*

37 *(e) No credit union shall enter into any obligation with any*
38 *credit manager or any officer employed by the credit union, directly*
39 *or indirectly, unless the obligation is in compliance with all*
40 *requirements of this division with respect to obligations permitted*

1 for other members, and not on terms more favorable than those
2 extended to other employees, and approved by the board of
3 directors.

4 *SEC. 2. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 ~~SECTION 1. Section 14000 of the Financial Code is amended~~
14 ~~to read:~~

15 ~~14000. This division shall be known as the "California Credit~~
16 ~~Union Act."~~